September 27, 2010

Mr. Mark Adams
Assistant General Counsel
Office of the Governor
P.O. Box 12428
Austin, Texas 78711

OR2010-14640

Dear Mr. Adams:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 394756.

The Office of the Governor (the "governor") received a request for documents created before December 2004 regarding an arson committed by a named individual, any documents created after December 2004 regarding the scientific reliability or accuracy of the investigation of the arson, any documents regarding the basis for terminating any members of the Texas Forensic Science Commission in the fall of 2009, any documents regarding the cancellation of a specified meeting of the Texas Forensic Science Commission, and any documents related to studies regarding the arson. You state the governor has released some of the requested information. You claim the remaining information is excepted from disclosure under sections 552.101, 552.107, and 552.111 of the Government Code.[1] We have considered the exceptions you claim and reviewed the submitted information.

You inform us the submitted information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2009-04633 (2009). In that ruling, we found the governor must withhold a portion of the information at
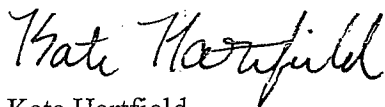
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[1]Although you raise section 552.101 of the Government Code in conjunction with rule 503 of the Texas Rules of Evidence, this office has concluded that section 552.101 does not encompass discovery privileges. We note that, in this instance, the proper exception to raise when asserting the attorney-client privilege for information not subject to section 552.022 of the Government Code is section 552.107. *See* Open Records Decision No. 676 (2002).

issue under section 552.101 of the Government Code in conjunction with section 508.313 of the Government Code. In addition, we held that the governor may withhold the remaining information at issue under section 552.107 of the Government Code. As we have no indication that the law, facts, and circumstances on which the prior ruling was based have changed, we conclude the governor must continue to rely on that ruling as a previous determination and withhold the submitted information in accordance with Open Records Letter No. 2009-04633.[2] *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,

Kate Hartfield

Kate Hartfield
Assistant Attorney General
Open Records Division

KH/em

Ref: ID# 394756

Enc.   Submitted documents

c: Requestor
        (w/o enclosures)

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[2]As our ruling is dispositive, we need not address your arguments against disclosure of the submitted information.